



08-CV-01199-ORD

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MAY 19 2009

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

STACEY RAY STACH,

Plaintiff,

v.

BILL ELFO et al.,

Defendants.

Case No. 08-cv-1199-JLR-JPD

ORDER RE DEFENDANTS' MOTION  
TO DISMISS

The Court, having reviewed the Report and Recommendation of United States Magistrate Judge James P. Donohue, the governing law and balance of the record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation.
- (2) Defendants' motion to dismiss for failure to exhaust administrative remedies (Dkt. No. 18) is GRANTED IN PART and DENIED IN PART, and Defendants are directed to file an answer. Plaintiff shall be allowed to proceed on his claims concerning the following: the shower drain being plugged and the resultant sewage discharge; the sinks being inoperable in his containment area; poor or no ventilation in his containment area; only one hour of recreation every ten days; only one change of clothing every seven to ten days; no law library

ORDER RE DEFENDANTS' MOTION TO  
DISMISS  
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1 access; and Defendant Pearson's alleged refusal of medication and medical  
2 treatment. All remaining claims in Plaintiff's amended complaint are dismissed  
3 without prejudice for failure to exhaust administrative remedies.

4 (3) Because Plaintiff has provided notice that he is unavailable through April 24,  
5 2009 due to medical treatment, Dkt. No. 29, the 21-day deadline for the parties  
6 to file objections to the Report and Recommendation shall begin to run on April  
7 25, 2009.

8 (4) The Clerk is directed to send copies of this Order to the parties and to Judge  
9 Donohue.

10 DATED this 19<sup>th</sup> day of May, 2009.

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13 JAMES L. ROBART  
14 United States District Judge  
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